

DECISION

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THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-194880

DATE: January 9, 1980

MATTER OF: Richard W. Coon - [Per diem ^{and} Interrupted travel] -
Temporary quarters

- DIGEST:**
1. Per diem for employee's family was properly reduced for first day of travel by privately owned vehicle since family traveled only 140 miles en route to employee's new duty station and short distance resulted from personal business interrupting travel. Per diem is not payable for interrupted travel, even though family for entire trip exceeded 300-mile minimum daily average required by FTR para. 2-2.3d. 56 Comp. Gen. 104 (1976).
 2. Employee is not entitled to temporary subsistence allowance after moving from commercial lodging to rented house since indefinite intent to purchase home some time in the future did not change character of rented house as permanent residence. Comp. Gen. decisions cited.

Ms. Sandra L. Schmick, Authorized Certifying Officer, Mine Safety and Health Administration (MSHA), Department of Labor, requests our decision on the claim of Richard W. Coon for per diem and temporary quarters subsistence allowance incident to his change of permanent duty station. D501370

The questions presented are whether it was proper for MSHA to (1) reduce per diem for Mr. Coon's family members because they interrupted travel to the new station by privately owned vehicle (POV) for personal business and only traveled 140 miles on the first day of travel; and (2) deny temporary quarters subsistence allowance for the period after Mr. Coon and his family occupied a rented house with an indefinite intent to purchase a home sometime in the future.

Mr. Coon flew to Denver, Colorado, his new permanent duty station, on June 4, 1978. Between July 12 and 16, 1978, Mr. Coon's wife and four children traveled by POV from Warner Robins, Georgia, to Denver. The family drove only 140 miles in 11 hours to Cartersville, Georgia, on July 12. However, they averaged 324 miles per day for the entire trip to Denver. The limited distance traveled the first day resulted from personal business requiring the family members to interrupt and curtail travel time en route.

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Per diem allowance during POV travel for permanent change of station "may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day." Federal Travel Regulations (FTR) para. 2-2.3d(2). In Donald C. Schott, B-189808, April 28, 1978, we said: "the principle involved - that the employee is required to travel a specified distance each day - also means that he may not be required, absent prior notification, to travel more than that distance each day." However, this decision observed that per diem and subsistence is further limited to the amount the employee and his family would have been entitled to had travel by POV been uninterrupted and by the usually traveled route. See also FTR para. 1-7.5d, which imposes this per diem restriction on travel generally. Most significant to the present case, we held in Kenneth G. Buss, 56 Comp. Gen. 104 (1976), that even though the employee travels the 300-mile minimum daily average required by FTR para. 2-2.3d(2), per diem must be suspended where the employee interrupted travel and failed to specify on the travel voucher the exact hour of departure from, and return to, duty status. FTR para. 1-11.5 requires that such information be specified on the travel voucher.

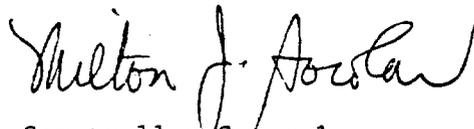
Although in the present case we have no indication that Mr. Coon or his family was notified to travel more than an average of 300 miles per day and the daily average did exceed that distance, the family members interrupted their travel on July 12, 1978, for personal reasons during some period of time not specified on the travel voucher or shown by other evidence in file. Since Mr. Coon is not entitled to per diem for the duration travel was interrupted, it was proper to reduce per diem for July 12. While the voucher submitted by Mr. Coon shows only the time of departure from the old station and the time of arrival at the first overnight stopping place, we do not believe the failure to show the time traveled was interrupted requires suspension of per diem for the entire day. In this connection the record shows that in the absence of better evidence of the period travel was interrupted, the agency reduced per diem for July 12 in proportion to the difference between the distance reasonably expected on that day and the 140 miles actually driven between Warner Robins and Cartersville that day. Bearing in mind that the usually traveled route between these two points was Interstate Highway 75 and that the family drove approximately 420 miles on each of the other days when full per diem was paid, it is our opinion that such reduction was proper.

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Concerning the claim for temporary quarters subsistence allowance, between July 16 and July 22, 1978, Mr. Coon and his family occupied temporary commercial lodging in Denver and MSHA does not dispute entitlement for this period. However, they occupied a rented house beginning on July 22. MSHA suspended entitlement for the period claimed beginning on that date through August 14, 1978. Mr. Coon considers the rented home to be temporary quarters because he intended to purchase a home in Denver and had not done so only because he was unable to locate one to buy and finance within his budget.

We have consistently held that a determination as to what constitutes temporary quarters is not susceptible of any precise definition, and any such determination must be based on the facts in each case. Thus, in past decisions we have considered such factors as the duration of a lease, B-173326, October 27, 1971; movement of household effects into the quarters, B-175913, June 19, 1972; the type of quarters, B-167361, August 5, 1969; expressions of intent, Charles L. Avery, B-179870, September 26, 1974; attempts to secure a permanent dwelling, B-163893, May 9, 1968; and the period of residence in the quarters by the employee, B-167632, August 20, 1969. In the instant case we considered the above factors and find that the principal ones involved are those concerning an intention to purchase a home at a future date and evidence of attempts to secure such home. Mr. Coon states that he has a past history of home ownership and intends to purchase a home at some future date when he is able to locate one within his means. We believe that such statements are too indefinite to support a conclusion that the quarters occupied are temporary for the purpose of entitlement to temporary quarters subsistence allowance. B-163043, June 18, 1968; Avery, supra.

Accordingly, it was proper for the agency to disallow per diem for the period of interrupted travel and temporary quarters subsistence allowance after Mr. Coon and his family occupied the rented house.



For The Comptroller General
of the United States